IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2445 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMESHBHAI NARAYANBHAI PATEL & 2 - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR RG CHHARA for Applicant(s) : 1 - 3.
PUBLIC PROSECUTOR for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2,
MR JR DAVE for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/07/2007
ORAL JUDGMENT

Rule. Leave to amend the prayer clause by adding the prayer to quash and set aside the order passed by the learned Additional Sessions

Judge, Ahmedabad (Rural) dated 1st February 2007 below Exh. 12 in Criminal Misc. Application No. 863 of 2006.

2. It appears from the record that against the order dated 20th February 2006 passed by the learned Magistrate the applicants preferred Revision Application before the learned Sessions Judge, Ahmedabad (Rural) at Ahmedabad and as there was delay of 140 days in preferring the said Revision Application the applicants preferred Criminal Misc. Application No. 863 of 2006 to condone the delay. The learned Additional Sessions Judge, Ahmedabad [Rural] at Ahmedabad did not condone the delay and rejected the said application. Shri JR Dave, learned advocate appearing on behalf of the respondent No.2, original-complainant has submitted that he has no objection if the delay of 140 days in preferring the Revision Application against the order dated 20th February 2006 passed by the learned Magistrate is condoned.

3. Under the circumstances, the impugned order dated 1st February 2007 passed by the learned Additional Sessions Judge, Ahmedabad [Rural] in Criminal Misc. Application No. 863 of 2006 in not condoning the delay of 140 days in preferring Revision Application is quashed and set aside and the delay of 140 days caused in preferring such application against the order dated 20th February 2006 is hereby condoned. Under these circumstances now the Revision Application filed against the order passed by the learned JMFC, Ahmedabad, dated 20th February 2006 in Summary Case No. 104 of 2005 is required to be heard, decided and disposed of on merits. Rule is made absolute to the aforesaid extent. However, it is observed that this Court has not expressed any opinion on merits in favour of either parties and has not considered the prayer of the petitioners to quash the complaint on merits. Direct service is permitted.

[M.R. Shah, J.]

rmr.